IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

FIRST APPEAL NO.892 OF 2004

Shri Vasudeo Gangaram Tambe : Appellant.

versus

Mrs.Sayali @ Surekha Vasudeo Tambe : Respondent.

Mr.Wamanrao Yende with Mr.S.B.Shetye for the appellant.

Mr.S.P.Thorat for the respondent.

CORAM : D.G.DESHPANDE,J.

DATED : 26th October 2005.

ORAL ORDER

1. This appeal is filed by the husband against the order of dismissal of his petition for divorce. I have heard this matter earlier. Attempts for settlement were also made. But when the matter came last, the counsel for the respondent raised objection about maintainability of this appeal before this court. Therefore, the

matter was kept today. The counsel for the appellant has relied upon Section 28 of the Hindu Marriage Act and contended that if the petition was dismissed by the Civil Judge, Sr.Division, Thane, the appeal would lie, as per the provisions of Section 28, to the District Judge, Thane. Second 28 itself is very clear. Nothing contrary was shown by the counsel for the respondent. Hence this appeal needs to be sent to the District Judge, Thane. Therefore, the following order :-

:ORDER:

This appeal with all the R&P and papers in compilation to be sent to the District Judge, Thane for decision according to law.

Both the parties will appear before the District Judge, Thane on 21.11.2005 and the District Judge, Thane will decide the appeal in any case within six weeks therefrom.

Certified copy expedited.

[D.G.DESHPANDE,J]